

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT  
EASTERN DIVISION

JANE DOE	)	CASE NO. 5:18-CV-01870
	)	
Plaintiff,	)	JUDGE SARA LIOI
	)	
-vs.-	)	
	)	
DAVID A. FOSTER et. al.	)	
	)	<u>DEFENDANT'S REQUEST FOR</u>
	)	<u>ENTRY OF DEFAULT</u>
Defendants.	)	
	)	

Now comes Defendant David A. Foster, by and through his undersigned counsel, and hereby requests the Clerk to enter a default pursuant to Rule 55(a) of the Federal Rules of Civil Procedure against the Plaintiff, Jane Doe, on the basis that the record in this case demonstrates that Plaintiff has failed to answer Defendant Foster's Counterclaim.

Rule (12)(a)(1)(B) of the Federal Rules of Civil Procedure provides that a party must serve an answer to a counterclaim within 21 days of service. Defendant Foster filed his Answer and Counterclaim on September 19<sup>th</sup>, 2018 and perfected service on Plaintiff that same date as evidenced by the attached Certificate of Service; as of the date of this filing, March 5<sup>th</sup>, 2019, Plaintiff has not filed an Answer to the Counterclaim, and it has now been 167 days since Defendant Foster's service on Plaintiff.

Furthermore, on February 15<sup>th</sup>, 2019, this Court entered an Order lifting the previous stay and giving the Plaintiff an opportunity to answer or to certify that a filing in Plaintiff's name captioned "Reply Instanter" was intended to be Plaintiff's answer to the counterclaim. The Order further provided that Plaintiff had fourteen days to provide her contact information or cause new counsel to enter an appearance on her behalf.

Docket #20 at page 2. As of the date of this filing – 18 days after the entry of the Order – Plaintiff has not filed an answer, nor certified the “Reply Instanter” as an answer, and no replacement counsel has made their appearance on behalf of Plaintiff.

Wherefore, Defendant David Alan Foster requests the Clerk to enter an entry of default against Plaintiff.

Respectfully submitted,

/s/ Timothy D. McKinzie

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